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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,438	01/31/2001	Dennis L. Salbilla	P02104US0/10100157	3287

7590

10/12/2006

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EXAMINER

CHORBAJI, MONZER R

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/773,438	Applicant(s) SALBILLA, DENNIS L.	
	Examiner MONZER R. CHORBAJI	Art Unit 1744	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1,5,6,14,15,27,29-32 and 34-38.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
 13. ☐ Other: _____.


 GLADYS J. CORCORAN
 SUPERVISORY PATENT EXAMINER

Continuation of 5. Applicant's reply has overcome the following rejection(s): 112 paragraph I rejection issued in final action dated 07/26/2006 has been withdrawn.

Response to Arguments

On page 6 of the Remarks section; Applicant argues that electric charge is not synonymous and is not interchangeable with voltage and /or electric charge and that Carson does not teach an electric charge. The examiner disagrees. Both Carson and Harms apply electric current that creates electric field having electric charge such that one having ordinary skill in the art upon reading Carson and Harms would have been motivated at the time the invention was made to modify Carson process by including an electric charge magnitude adjustment step as taught by Harms in order to affect a desired degree of contaminant removal in the fluid being treated (col.5, lines 57-61).

On page 6 of the Remarks section; Applicant argues that the examiner is in error for suggesting that electric current is continually applied over a time period of less than 5 minutes. The examiner disagrees. Carson applies constant or continual or continuous electric current during a time interval (in col.2, lines 18-20 and col.3, lines 59-62 where electric current is continually applied over a time interval of less than 5 minutes) to a heat exchanger. The instant claims do not disclose a time range for applying the current. In addition, Carson discloses a method (col.2, lines 12-15) for reduction of fouling of process components with a liquid hydrocarbon stream oil refining plants (col.2, lines 56-60 and col.4, lines 8-11).

On page 7 of the Remarks section; Applicant argues that, "Harms does not teach, show or suggest processing a hydrocarbon. Water and hydrocarbons are completely different in terms of polarity, physical properties, volatility and flammability, just to name a few significant differences. Therefore, there is no reasonable expectation from the references themselves that the process of Carson could be modified according to the teachings of Harms. Nor would one of ordinary skill in the art interested in hydrocarbon processing look to Harms which relates to water treatment. These are non-analogous arts." The examiner disagrees since both Carson and Harms are in the art of treating contaminated fluids and both are trying to achieve the same goal, which is purifying fluids through the use of applying electric field. With regard to chemical differences between water and hydrocarbon fluids, one of ordinary skill in the art upon reading Carson and Harms would recognize the obvious need, if any, to accommodate for modification in applying the electrical field. Clearly, one having ordinary skill in the art upon reading Carson and Harms would have been motivated at the time the invention was made to modify Carson process by including an electric charge magnitude adjustment step as taught by Harms in order to affect a desired degree of contaminant removal in the fluid being treated (col.5, lines 57-61).

On bottom of page 7 through page 8 of the Remarks section; Applicant argues that, "In fact, a magnitude adjustment step in Carson would have no effect on Carson's process of melting accumulated paraffins, which are non-polar." The examiner disagrees. Both Carson and Harms apply electric current that creates electric field having electric charge such that one having ordinary skill in the art upon reading Carson and Harms would have been motivated at the time the invention was made to modify Carson process by including an electric charge magnitude adjustment step as taught by Harms in order to affect a desired degree of contaminant removal in the fluid being treated (col.5, lines 57-61).

On page 8 of the Remarks section; Applicant argues that, "Moreover, the examiner has failed to state why the combination of Sivavec, Carson and Harms is suggested by the references themselves. The examiner simply proposes a combination of their teaching and concludes it is all obvious. That hindsight reasoning is not the standard under 35 U.S.C. 103." The examiner disagrees since the motivation for combining Carson and Harms with Sivavec is disclosed in Sivavec, that is, for detecting the level of contaminants in fluid streams. See page 9 of the final action dated 07/26/2006. Also, see MPEP 2144.